

Appl. No. 10/694,277

Request dated September 13, 2005

Reply to Final Office action of July 13, 2005

**REQUEST FOR RECONSIDERATION
AFTER FINAL REJECTION (RULE 113)****REMARKS/ARGUMENTS****Rejections Under 35 U.S.C. § 103**

In an earlier Office Action dated December 20, 2004, the Examiner indicated that claims 48 through 50 and 72 through 74 would be allowable if re-written in independent form. Applicant responded with an Amendment dated May 20, 2005, wherein the claims were amended toward this end, with one general exception as explained in that Amendment, namely, using "protocol" in place of "IP" in various locations.¹ In response, the Examiner conducted a new search and issued the present Final Office Action, dated July 13, 2005.

Claims 30-31, 42-46, 49-60, 66-70, and 73-74 are rejected under 35 U.S.C. § 103 over Templin (US 5,781,550, referred to as Templin '550) in view of Request for Comments 903 (referred to as Finlayson). Applicant traverses these rejections.

With respect to Templin '550 and independent claim 30, the Examiner indicates that it teaches various things. Among these, the Examiner cites in part to the DETAILED DESCRIPTION in Templin '550 for various items of claim 30. However, for other recitations of claim 30, the Examiner cites to the BACKGROUND in Templin '550, where there is no teaching in Templin '550 that those items cited in the BACKGROUND apply to its own embodiments. For example, at the top of Page 4 of the present Action, the Examiner cites to "col 2/lines 57-61" and "col 1/lines 42-53, 63-column 2/line 9." Applicant respectfully traverses this attempt by the Examiner to combine the BACKGROUND prior art, which in other locations is actually criticized by Templin '550, with the Templin preferred embodiments.

Also with respect to Templin '550 and independent claim 30, the Examiner states the following near the bottom of Page 4 of the Action and at the conclusion of the discussion of Templin' 550 with respect to claim 30.

"although Templin discloses a gateway computer relaying address pairing communications (i.e., data packet comprising source and destination addresses) between a first and second network medium between host computers coupled to their respective networks via their corresponding network interface circuits and the communication protocol; wherein host computer use of address-pairing communications for determining the IP address between host computers via address resolution protocol, however Templin does not explicitly teach where the communications received by

¹ Various other minor matters were addressed in the previous Amendment and the reader is referred thereto.

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the gateway is a protocol-address pair request, wherein a request for the protocol address of a computer host given its physical address.”

By way of contrast, claim 30 concludes with the following language:

wherein:

responsive to the link layer protocol handler determining that the source host computer which transmitted the received data packet and the destination host computer designated by the destination protocol address are not on the same one of either the first network medium or the second network medium, the link layer protocol handler communicates a reply data packet to the source host computer which transmitted the received data packet;

the reply data packet comprises an address pairing; and

the address pairing comprises the destination protocol address and a hardware physical address corresponding to a selected one of the first network interface circuit or the second network interface circuit, wherein the selected network interface circuit is coupled to the same network medium as the source host computer which transmitted the received data packet.

With all due respect to the Examiner and the complexities of the preferred embodiments as well as that of the Patent Office, Applicant respectfully requests clarity in this critical basis of the rejection in that the Examiner's language does even parallel that of claim 30. As a result, it is impossible to determine the rationale of the Examiner's rejection and to formulate a full response thereto. Thus, Applicant respectfully submits that it is not being afforded the proper procedure in connection with replying to a final rejection and it requests a withdrawal and/or clarification of the rejection, but without prejudice or disclaimer Applicant nonetheless herein attempts to respond to same.

Consider various examples with respect to the preceding. As a first example, the Examiner's rejection refers to “a request for the protocol address of a computer host;” however, the term “request” is nowhere in claim 30. As another example, the Examiner's rejection appears to present a definition of “address pairing communications” by stating “i.e., data packet comprising source and destination addresses;” however, this definition is not supported in either Templin '550 or the present application. As a final example, the entirety quoted above is only a portion of the overall sentence provided by the Examiner, and especially toward its end there is a lack of clarity in the correspondence between the claimed elements and the points being made by the Examiner.

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With respect to Finlayson and independent claim 30, the Examiner states that it "suggests" a concept. Applicant respectfully submits that herein lies the first deficiency of the citation to Finlayson. Finlayson on its face a "request for comment" and it is quite deficient in details. Thus, Applicant respectfully submits that Finlayson does not *teach* or *describe* the aspects indicated by the Examiner, as reflected by the Examiner noting that at best Finlayson only "suggests" certain aspects.

Also with respect to Finlayson and independent claim 30, the Examiner does not relate with one-to-one correspondence the teachings of Finlayson to the elements of claim 30. Applicant requests greater clarification so that it may fully respond.

Still further with respect to Finlayson, it appears from its brief request for comment that it is directed to a "workstation" learning *its own* protocol address when already knowing *its own* physical address. Finlayson states its on page 1, with emphasis added by the undersigned: "a method for workstations to dynamically find their protocol address..., when they known only *their* hardware address..." Finlayson also states its on page 1, "Network hosts ...frequently do not know *their* protocol addresses when booted; they often known only *their* hardware interface addresses." Thus, Finlayson is not at all directed to the hardware recited in claim 30, namely, a "link layer gateway computer operable to communicate a data packet from a source host computer selected from one of a plurality of host computers coupled to a first network medium to a destination host computer selected from one of a plurality of host computers coupled to a second network medium." Instead, at best Finlayson deals with the relationship between a workstation and a server. Moreover, as recited at the end of claim 30, the claimed gateway computer "link layer protocol handler communicates a reply data packet to the source host computer which transmitted the received data packet." So, the reply is from the gateway computer to a different computer, namely, the source host computer. Further, the "reply data packet comprises an address pairing" and that "address pairing comprises the destination protocol address" of a "destination host computer designated by the destination protocol address" and also a "hardware physical address corresponding to a selected one of the first network interface circuit or the second network interface circuit" of the gateway computer. Simplified, therefore, the claimed reply of the address pairing relates to three different computers, namely, the claimed "source host computer," the claimed "destination host computer," and the claimed "link layer gateway computer," and the claimed "address pairing" relates to three different computers, namely, the destination host computer designated by the destination protocol address," as provided by the "source host computer," and a "hardware physical address corresponding to [part] of the gateway computer." Finlayson in no way relates to these matters.

Looking at the preceding in the alternatives: (1) there is no motivation to combine Templin' 550 and Finlayson; (2) there is certainly no suggestion in Finlayson to combine it with Templin' 550; and (3) even if the two references were so combined, they would not provide the resultant limitations set forth in claim 30.

In view of the above, Applicant respectfully submits that claim 30 is allowable, as are its dependent claims 31 through 37, 42 through 46, 49, and 50.

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Claim 51 is rejected under the same bases as claim 30, discussed above.
Moreover, claim 51 include the following limitations:

responsive to the link layer protocol determining that the source host computer which transmitted the received data packet and the destination host computer designated by the destination protocol address are not on the same one of either the first network medium or the second network medium, the link layer protocol communicates a reply data packet to the source host computer which transmitted the received data packet;

the reply data packet comprises an address pairing; and

the address pairing comprises the destination protocol address and a hardware physical address corresponding to a selected one of the first network interface circuit or the second network interface circuit, wherein the selected network interface circuit is coupled to the same network medium as the source host computer which transmitted the received data packet.

Thus, to the extent that these limitations are comparable to those of claim 30 discussed earlier, then Applicant submits that the statements made earlier with respect to claim 30 apply equally to claim 51. Thus, Applicant respectfully submits that claim 51 is allowable, as are its dependent claims 52 through 63, 66 through 70, 73, and 74.

Rejections Under 35 U.S.C. § 101

Claims 30 through 50 are rejected based on double patenting. Applicant will further address such rejections should they not be withdrawn by the Examiner in a subsequent indication of allowability of the presently-urged claims. In addition, Applicant notes that with the previous amendments to these claims dated May 20, 2005, there are considerable differences between them and the cited U.S. Patent 6,657,999, and the Examiner has not addressed these differences. For example, claim 30 of the present application recites the following:

responsive to the link layer protocol handler determining that the source host computer which transmitted the received data packet and the destination host computer designated by the destination protocol address are not on the same one of either the first network medium or the second network medium, the link layer protocol handler communicates a reply data

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packet to the source host computer which transmitted the received data packet;

the reply data packet comprises an address pairing; and

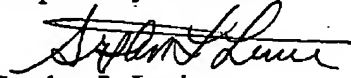
the address pairing comprises the destination protocol address and a hardware physical address corresponding to a selected one of the first network interface circuit or the second network interface circuit, wherein the selected network interface circuit is coupled to the same network medium as the source host computer which transmitted the received data packet.

These recitations are not, as the Examiner asserts, "substantially the same as claim 1 of that patent." Indeed, there are no such limitations in claim 1 of U.S. Patent 6,657,999. Similar observations may be made with respect to other of the claims so rejected and, thus, Applicant respectfully submits that such rejection also should be withdrawn.

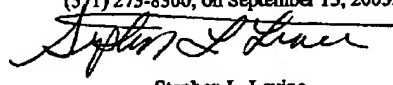
Conclusion

Applicant respectfully requests that a timely Notice of Allowability be issued in this case.

Respectfully submitted,


Stephen L. Levine
Registry No. 33,413

Anderson, Levine & Lintel, L.L.P.
14785 Preston Road, Suite 650
Dallas, Texas 75254
(972) 664-9552
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<p>CERTIFICATE OF FACSIMILE TRANSMISSION 37 C.F.R. 1.8 The undersigned hereby certifies that this correspondence is being facsimile transmitted to the Office central facsimile number, (571) 273-8300, on September 13, 2005.</p> <p> Stephen L. Levine Registry No. 33,413</p>
